

ELECTRONIC COMMERCE IN AMERICAN TRADE POLICY

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Washington, DC**

June 9, 1999

Good morning. I want to thank Chairman Pitofsky for inviting me to speak with you today.

Our topic today is by no means a simple one. Electronic commerce, and the broader phenomenon of the Internet, are in their infancy. They are developing with great speed and unpredictable consequences, and are already forcing governments to think differently about many issues.

Trade is no exception. And today I would like to offer some thoughts about the principles and specific objectives we believe can be a guide to trade policy as this new world develops.

THE INFORMATION REVOLUTION

The Information Revolution, to begin with, is changing life and work in almost every field.

In health, telemedicine is transforming rural health care as family doctors consult on-line with the NIH and the Centers for Disease Control.

In science, virtual reality guides microscopic cameras through blood vessels or a robot across the landscape of Mars.

In travel, the Global Positioning Service helps safeguard shipping and make family vacations easier and safer through immediate warnings of bad weather or traffic jams ahead.

And in public life, democracy is strengthened as Web sites and e-mail give students and citizens access to news, information and debate; which of course has its darker side, in giving hate groups and criminal organizations instant access as well. As we have in the past, however, we will find the blessings of freedom far outweigh the cost.

ELECTRONIC COMMERCE

And the same is true in business and trade.

Global electronic commerce – the use of the Internet and other forms of electronic

transmissions to buy and sell – will make companies more efficient, as computers allow them to cut inventories, provide better and more timely customer service, and meet consumer demand more efficiently. To give a concrete example, estimates are that when you go to a bank, your transaction with the teller costs about a dollar; when you use an ATM, it's about fifty cents; when you use the Internet, it drops to thirteen cents.

Likewise, the Internet will make trade and make international business far easier than ever before. It will allow businesses and customers to find one another more rapidly, reduce the complexity of finding and filling out paperwork, and erase borders completely for products available in digital form. Especially interesting and exciting is the potential of electronic commerce to spur entrepreneurialism in disadvantaged areas: the Internet allows small businesses, and individuals in poor countries or remote areas to enter markets at low cost, find customers easily, and cope with paperwork and regulations far more efficiently.

And for consumers, electronic commerce will raise living standards and create tremendous new sources of leverage over companies. It will give consumers new power to compare price and quality among vendors all over the world. And it will make daily life more convenient, as consumers bypass department stores and use computers to order products from music and film to home appliances delivered directly to the home from any international source.

THE POLICY CHALLENGE

Electronic commerce also, of course, raises some more troubling questions.

Governments must reflect on the ways to adapt national trade and crime-fighting policies to a borderless world. Consumers -- and businesses too -- know that together with rising living standards and better prices come questions about Internet scam artists, abuse of credit cards, and collection of personal data about purchases, visits to Web sites and other privacy issues.

And so our challenge is clear. Consumers should get the maximum benefits of these new technologies. Our companies, our national economy, and our trade partners should be able to use them to the best effect. And at the same time we should maintain high standards of public safety, privacy and consumer protection that help define the quality of life.

This is a complex challenge, made more so by the rapid growth of the Internet and electronic commerce. The Internet, with three million users in 1995, now has 140 million, with 52,000 new Americans logging on each day; by 2005 it may reach a billion people around the world. Electronic commerce, totalling about \$200 billion last year, may reach \$1.3 trillion in the United States alone by 2003. And new products and services develop every moment: from remote monitoring of forest health to long-distance education and more.

U.S. PRINCIPLES

At the same time, however, we are not faced with an utterly new and alien set of concepts. Electronic commerce and the Internet are new developments which depend on state-of-the-art technology. But they also represent logical developments of earlier innovations in communications and information technology, dating to telegraphs and telephones 100 years ago and more.

So while we must adapt our thinking and policies in certain important ways, our traditional principles remain valid. We have generally believed that government policies should be in the form of self-regulation where possible, rather than attempts to control the development of industries and technologies. Where this does not succeed, of course, the government has an obligation to protect citizens, especially those most vulnerable, through impartial means. And in either case, we have maintained an open and non-discriminatory market, believing that trade generally creates competition and raises living standards.

These principles, we believe, will be valid in electronic commerce as well:

- It will be very difficult to predict precisely how an electronic marketplace will develop, and which goods, services and technologies will be most successful. So we do not propose to try; rather, we will wherever possible leave this to the private sector and the market.
- Further, while government action to fight crime, protect children and protect privacy in electronic commerce and the Internet will be necessary, evaluating the need for new regulations will be a very complex task. Unless the decisions we ultimately make rest on a strong consensus among the private sector and consumers as well as government, the most likely result will be a set of regulations that are both burdensome for businesses and consumers, and ineffective in their primary object.
- And finally, there are no natural borders to cyberspace, and the development of policies and solutions must, as much as possible, be a worldwide effort.

This action takes place in many different arenas. Over the past several years, we have been developing an institutional infrastructure for electronic commerce to give businesses and consumers the confidence and predictability we enjoy in traditional form of commerce. The issues involved range from managing domain names, establishing standards and a legal framework for digital signatures, ensuring adequate privacy protection, and addressing the tax implications of electronic commerce. All these issues are extremely important to the future of electronic commerce, and our colleagues in other agencies are addressing them through international talks and in our domestic agenda.

In trade policy, we are developing our broader principles through specific objectives at the WTO, and through advisory committees in the regional and bilateral trade initiatives we have

underway in each part of the world. These goals fall into three major categories: guaranteeing unimpeded development of electronic commerce; ensuring enforcement of existing regulations to protect consumers, fight crime and so forth; and extending access to the electronic marketplace. And let me now review our objectives in each area.

UNIMPEDED DEVELOPMENT OF ELECTRONIC COMMERCE

First, we want to ensure unimpeded development of electronic commerce. Here we have several specific objectives: duty-free cyberspace; technological neutrality; and ensuring the most liberal treatment of products carried on electronic transmissions.

1. Duty-Free Cyberspace

Most immediate is our initiative to keep cyber-space duty-free -- that is, to prevent the imposition of tariffs on electronic transmissions. To impose customs duties for electronic transmissions would be a burden on the development of this technology, which would be lightened only by the extraordinary difficulty of collecting the charges. It would both slow the growth of electronic commerce, and encourage that growth to take place outside the law.

Today, fortunately, no member of the WTO considers electronic transmissions imports subject to duties for customs purposes. There are no customs duties on cross-border telephone calls, fax messages or computer data links, and this duty-free treatment should include the Internet. We have thus spent a great deal of energy in preventing their emergence, and so far with success. We secured a temporary "standstill" on application of tariffs in this area at the WTO last year, and will seek consensus on an indefinite extension of it this year as the WTO Ministerial Conference in Seattle this November approaches.

2. Technological Neutrality

At the same time, through the longer-term WTO work program we are seeking consensus on a broader principle of "technological neutrality," to ensure that products delivered electronically are protected by the trade principles of the WTO.

New technologies and telecommunications services make possible a vast range of new activities. Whether it is call centers located in Nebraska, Internet radio out of Texas, software production in India, or inventory monitoring in Ireland, a cheap, powerful global network now brings activities to the area in which they are carried out most efficiently. We can predict neither the new activities that will become possible in the next decade, nor the methods which will deliver them most cheaply and easily. Neither, in fact, can the technical experts -- if you recall that Alan Turing, one of the inventors of the computer, thought in the 1940s that one of its major uses would be "calculating range tables for artillery fire."

What we can predict is that, with freedom to develop new ideas and technologies, we will

find better and easier ways to conduct business all the time. The principle of technology neutrality, in the trade perspective, means that countries should not deny firms and consumers the benefits of newer or cheaper goods and services simply because they are delivered electronically. To do so would be to choke off innovation before it begins.

3. Digital Products

And we believe the world should keep an open mind as to classification of the types of products delivered over the Internet. It may be that our traditional distinction between “goods” and “services,” which are treated differently under the WTO agreements, is becoming somewhat outdated. We have and should keep an open mind as to the appropriate classification; and as a starting point we endorse Japan’s proposal that digital products receive the most liberal treatment possible under the existing WTO agreements.

4. Intellectual Property Rights

Finally, protection of intellectual property rights is essential if electronic commerce is to reach its full potential. This raises a special challenge, as music, film, and other copyright products will very soon be available over the Internet as easily through stores, cinemas or video rental shops. And this in turn, as it offers people greater access to arts and entertainment and gives artists and businesses wider markets, also raises at least the possibility of an explosion in on-line piracy. Our principal vehicle for preventing this from occurring is our support for wide ratification of recent World Intellectual Property Organization (WIPO) Treaties addressing Internet piracy. And of course, we support establishing in parallel with ratification rules that outline the liability of networks and manufacturers.

CONSUMER PROTECTION

Together with, and fundamental to, unimpeded development of electronic commerce is ensuring high standards of consumer protection.

This is a fundamental American principle and a consensus policy goal. Consumers of course do not want to be cheated or exploited. Likewise, businesses who see part of their future in electronic commerce do not want the medium to gain a reputation as rife with frauds and scams. Likewise, businesses do not want to gain a reputation for themselves as abusers of privacy.

Thus, in the majority of cases we believe businesses can police themselves and one another. Many businesses have voluntary privacy programs, backed up by good enforcement, allowing consumers who visit Web-sites to choose whether to offer information about themselves to the site operator. Those who refuse to adopt these programs will likely see business drop off.

At times, however -- especially with respect to children -- voluntary programs will likely

need to be accompanied by government regulation and enforcement. As government and industry groups proceed to develop consumer protection regimes, governments should apply basic WTO principles like transparency and non-discrimination, and ensure that their regulatory processes are fair and open to advice from businesses and civil society groups. If not, the resulting policies will most likely impose burdens on consumers and businesses while failing in their primary tasks.

The specific issues we will face are highly complex – to take just one example, the jurisdictional question of whether laws where the provider is established or the consumer resides will apply to contracts and business transactions. No consensus yet exists on these issues. And our approach is to accept that fact, and encourage discussions toward the solution acceptable to the broadest group of people.

We are carrying on these discussions in, or in association with, our bilateral trade policy and each of our major regional trade initiatives:

- We have endorsed joint statements of principles, including such issues as principles as duty-free cyberspace and consumer protection, with Japan, the EU, Ireland, France, the Netherlands, Korea and Australia.
- The Free Trade Area of the Americas negotiations, which began last September, have an Electronic Commerce Expert Committee which is exploring these issues with the intent of advising the other FTAA groups; the Committee includes representatives of business, academia and NGOs.
- Our Transatlantic Economic Partnership talks with the European Union make electronic commerce the focus of one of the seven areas of concentration. We also encourage and participate in discussions of electronic commerce issues in the Trans-Atlantic Consumer and Business dialogues.
- The Asia-Pacific Economic Cooperation Forum likewise has an e-commerce Steering Committee, which concentrates on a set of important technical issues.

In all these arenas, we act on the principle that the best way to reach our goals is transparency and close collaboration between government and the private sector. These are the kinds of good practices which embody key principles of the WTO, designed to foster trade and, ultimately, enhance consumer welfare. This conference, of course, is itself an example, taking 58 sets of comments from a broad range of interest groups, including six from foreign affiliated groups. Open discussions such as this will develop approaches to consumer protection ensure that approaches are transparent, that all voices are heard, and that the solutions we ultimately chose have the best chance of succeeding.

The nature of digital technology makes enforcement an enormous challenge. To succeed, governments will have to work with those developing and using the technology to develop

effective solutions. While we have championed industry self-regulation for policy reasons, there are good practical reasons why this is preferable, especially in electronic commerce. We hope we can draw lessons from the experience here, integrate them into efforts underway by our trading partners, and develop an approach to electronic commerce that can provide a common basis for addressing worldwide issues consistently, so electronic commerce can live up to its promise.

If we can get it right, both in process and substance, we can provide a model for other countries to emulate. Failure to find solutions, by contrast, means that governments around the world, under pressure to respond to perceived problems, could institute regulations which are both burdensome and ineffective, potentially undermining global benefits electronic commerce could offer to consumers, entrepreneurs and national economies everywhere in the world.

UNIVERSAL ACCESS

And this leads me to the third policy goal. Electronic commerce should develop unimpeded; consumers must be protected as it develops; and everyone, here and overseas, to should have access to the electronic marketplace.

One of the most profound and exciting implications of electronic commerce is its potential to speed development in poorer nations and disadvantaged regions at home. Rural areas, Indian Nations, small towns, and entrepreneurial associations in developing nations are all finding that Internet access requires little capital, helps entrepreneurs find customers and suppliers quickly, and eases technical and paperwork burdens that can slow participation in trade.

Thus, electronic commerce is ideally suited for developing countries and people with a good idea but little capital. We are stressing these opportunities, for example, in our African trade initiative, together with concrete technical assistance programs to help create competitive, private-sector driven electronic commerce markets. AID has already helped eight African nations set up national gateways, and begun discussions with four more. And it has reallocated existing funds to promote e-commerce development in Jamaica, Guatemala, Uganda, Bulgaria, Morocco, Egypt, Ghana and Haiti.

The result, if we succeed, will be a seamless, worldwide network which allows people in these countries to enter trade very quickly and spur development worldwide.

CONCLUSION

For these countries, and for us as well, electronic commerce is in its infancy. We have the luxury of being present at the creation of a very new phenomenon; and that gives us a great responsibility.

If we act cautiously and sensibly today, electronic commerce can develop into an extraordinary force for consumer benefits, national economic growth, and creativity in the years

ahead. That is the prospect our policy aims to realize; and we will take the time to get it right.